

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and following remarks is respectfully requested.

Claims 1-27 and 30-36 are pending. Claim 32 is amended to recite a computer-usable medium storing a computer program.

The rejection of claim 32 under 35 USC 101 as being directed to non-statutory subject matter is believed overcome in view of the foregoing amendments. Notwithstanding the fact that the claim language clearly recites a computer program **stored on a computer-usable medium**, Applicants have amended the claim language to advance prosecution to a speedy conclusion. Withdrawal of the rejection is respectfully requested.

Claims 1-5, 10, 12-13, 15-21, 26, and 32-36 are not obvious over Connor (US Patent 6,011,851) in view of Hassan et al. (US Patent 5,974,376) and the King et al publication

The rejection of claims 1-5, 10, 12-13, 15-21, 26, and 32-36 under 35 USC 103(a) as being obvious over *Connor* in view of *Hassan* and the *King* publication is hereby traversed. There are at least five reasons claim 1 is patentable over the applied combination of references and withdrawal of the rejection is respectfully requested.

Claim 1

First, *Connor*, singly or in combination with *Hassan* and/or *King*, fails to disclose or suggest “the playing terminal being further arranged to control the data rate of transmitted data . . . the data rate of transmitted data being dependent on the selected focus sound or track” as claimed in claim 1.

The PTO admits that *Connor* fails to teach a playing terminal which can control the data rate of transmitted data relating to each audio component. Present Official Action (OA) mailed April 23, 2007 at page 5, lines 5-7.

The PTO asserts that *Hassan* describes a playing terminal arranged to control the data rate of transmitted data at column 1, line 15 through column 2, line 11 and column 2, line 63 through column 3, line 8. This is incorrect. *Hassan* appears to describe using wavelet techniques to decompose an audio signal to a base signal and additional signal details which are added to the signal transmitted. The PTO has failed to identify any disclosure in *Hassan* of a selected focus sound or track upon which the data rate depends.

Further, column 2, lines 15-23 of *Hassan*, reproduced herein for ease of reference and convenience, states as follows:

For example, audio signals such as an ordinary voice conversation may only require an intermediate or low level of audio signal resolution to be intelligible. Bandwidth and power are saved by transmitting a lower resolution. Some audio, such as musical works, may require high resolution to be effective for the purposes of the party receiving the communication. In such cases, the receiving party can request higher levels of resolution.

The PTO-identified portion of *Hassan* appears to describe using different levels of resolution for differing audio signals. Further, *Hassan* appears to describe applying the different level to the entirety of the transmitted signal. *Hassan* does not appear to describe transmission of the “ordinary voice conversation” and “musical works” at the same time. There is no description of controlling the data rate of transmitted data for different audio components dependent on a selected focus sound or track in *Hassan*. For at least this reason, withdrawal of the rejection is respectfully requested.

Second, *King* appears to refer to the frequency bandwidth of the generated sound source without specifying the data rate of the sound source. Further, *King* appears to describe a particular set of frequency bandwidths applicable to all sound sources. *King* fails to describe the transmitted data rate for each audio component as being dependent on a selected focus sound or track as claimed in claim 1. For at least this reason, withdrawal of the rejection is respectfully requested.

Third, *King* appears to describe the opposite of the PTO’s assertion regarding “motivation for saving bandwidth,” i.e., *King* appears to describe “the effects of limited stimulus

bandwidth.” *King* at page 288, third full paragraph. Contrary to the PTO’s assertion, *King* states that “[b]roadband signals and communication systems will be required for high-resolution spatial synthesis systems.” *King* at page 294, second column, second full paragraph. That is, *King* appears to assert that all signals require the same bandwidth in order to obtain better spatial resolution. For at least this reason, withdrawal of the rejection is respectfully requested.

Further, based on the foregoing rationale, the combination of references is believed improper because *King* appears to be suggesting the opposite of *Connor* and *Hassan* regarding saving bandwidth. The PTO is not believed to have set forth a reasonable rationale or motivation for a person of ordinary skill in the art at the time of the present invention to combine *King* with either *Connor* or *Hassan*. For at least this reason, withdrawal of the rejection is respectfully requested.

Fourth, contrary to the PTO assertion at page 3 of the present OA, *Connor* appears to describe changing the spatial position of a sound, i.e., “[t]he degree of intelligibility is assigned to a ‘foreground’ position located perceptually central and closest to the listener and given highest magnitude playback levels. Incoming sources of lower listening priority are assigned to one of several ‘background’ positions, which perceptually are located behind and either to the left or right of the ‘foreground’ position and given lower magnitude playback levels.” *Connor* at column 3, lines 6-15. Thus, *Connor* fails to teach that a “foreground, or priority position, sound requires the highest degree of intelligibility” and instead appears to describe that a sound source requiring the highest degree of intelligibility is assigned to a foreground, central position. For at least this reason, withdrawal of the rejection is respectfully requested.

Fifth, none of the applied references appear to describe or suggest a plurality of audio components being transmitted such that a playing terminal is able to control the data rate of transmitted data, relating to each audio component where the data rate of the transmitted data is dependent on a selected focus sound or track. For at least this reason, withdrawal of the rejection is respectfully requested.

For each of the foregoing reasons, claim 1 is patentable over the applied combination of references and the rejection is respectfully requested to be withdrawn.

Each of the independent claims 15, 16, 18, 32, and 33 are patentable over the applied combination of references for at least reasons similar to those advanced above with respect to claim 1.

Dependent claims 2-14, 17, 19-27, 30, 31 and 34-36 are allowable for the same reasons advanced for the claims upon which they depend. The *Slezak* reference, US patent 6,647,119, relied on as a secondary reference in connection with the rejection of dependent claims 6, 7, 14, 22, 23, 30 and 31, does not cure the deficiencies in the rejection of the independent claims, nor does *Kobayashi*, relied on as a secondary reference in connection with the rejection of dependent claims 8, 9, 24 and 25, nor does *Frulla et al.*, US patent 6,424,357, relied on as a secondary reference in connection with the rejection of dependent claims 11 and 27.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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